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Human Rights Committee

Concluding observations on the third periodic report of San Marino

Addendum

Information received from San Marino on follow-up to the concluding observations*

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* The present document is being issued without formal editing.

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National human rights institution

Paragraph 7: Recalling its previous recommendation (see CCPR/C/SMR/CO/2, para. 6), the Committee recommends that the State party establish an effective and independent national human rights institution with broad competence in the field of human rights in line with the Paris Principles.

1. At the time being, the Republic of San Marino is not envisaging the establishment of an Ombudsman. The Government believes that the establishment of this mechanism would be a difficult task for our small Republic. Indeed, it would not be easy to identify the members of such a body: choosing foreign personnel would ensure the required independence but not the knowledge of the local context. Moreover, it would be necessary to allocate financial resources to this mechanism, which are not easy to find in this period of economic crisis.

2. Some functions performed by the Ombudsman have been traditionally conferred upon the Captains Regent of the Republic of San Marino. Indeed, one day a week, they receive San Marino citizens and foreigners residing in San Marino, who claim that their rights have been violated by the Public Administration, or who wish to raise the Heads of State's awareness on matters of public interest. The Captains Regent put the citizens' and residents' petitions on record and, through the competent offices, process the requests within the Government or directly through the public administration responsible for any infringement claimed by the applicant. With the constitutional amendments introduced with Law no. 185 of 16 December 2005, the traditional recourse to the Captains Regent by the citizens became part of the San Marino legal system.

Anti-discrimination legislation

Paragraph 9: The State party should take the measures necessary to strengthen its legal framework against discrimination, in particular by enacting comprehensive anti-discrimination legislation covering all grounds of discrimination, including gender identity. In addition, it should make vigorous efforts to raise awareness among the general public and train judges and lawyers on the existing criminal provisions against discrimination.

3. The San Marino legal system safeguards equality and equal opportunities among citizens in its fundamental law. Article 4, paragraph 1 of the Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order envisages that:

> "All shall be equal before the law, without any distinction based on sex or personal, economic, social, political and religious status".

4. This constitutional principle has been included in various specific laws on several social sectors (work, education, health and social sectors, etc.).

5. The list provided for by Article 4 of the Declaration of Rights has always been considered non-exhaustive both in legal literature and in case-law. Due to this, such Article has been applied to all forms of discrimination that have emerged since 1974, hand in hand with the increase in social protection needs and in civil awareness.

6. The San Marino legislator has always avoided including new forms of discrimination in the Declaration of Rights, so as to rule out the possibility that the list of forms of discrimination be considered, in any way, exhaustive. In fact, this interpretation would have the harmful effect of raising doubts on the possible inclusion of forms of discrimination — and relative protection measures — that have not been foreseen, or that were not foreseeable at the time when the law was amended.

7. The Republic of San Marino considers its constitutional provisions against discrimination to be adequate.

8. As regards awareness raising efforts and the training of judges and lawyers, we believe that the few judges and the lawyers active in San Marino are instantly informed of legislative developments, also thanks to the fact that the website of the San Marino

parliament (www.consigliograndeegenerale.sm) is constantly updated, contains all the legislative measures adopted and allows users to search quickly.

9. The Government of the Republic of San Marino is engaged in various initiatives, both in the area of awareness raising (e.g.: participation in the International Day for the Elimination of Racial Discrimination), and training — in the field of school, sports, health etc. — in order to train specialised operators and raise the awareness of San Marino citizens on such issues.